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WORLD CONFERENCE AGAINST RACISM,
RACIAL DISCRIMINATION, XENOPHOBIA
AND RELATED INTOLERANCE

Preparatory Committee
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Item 6 of the provisional agenda

REVIEW OF REPORTS, STUDIES AND OTHER DOCUMENTATION FOR THE PREPARATORY COMMITTEE AND THE WORLD CONFERENCE

Contribution of the Committee against Torture to the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

Note by the Secretary-General

In its resolution 2000/14 of 17 April 2000, the Commission on Human Rights invited United Nations bodies and mechanisms dealing with the question of racism, racial discrimination, xenophobia and related intolerance to participate actively in the preparatory process of the World Conference (para. 66). The General Assembly, at its fifty-fourth session, also requested human rights mechanisms to assist the Preparatory Committee and to undertake reviews and submit recommendations concerning the World Conference and the preparations therefor to the Preparatory Committee, through the Secretary-General, and to participate actively in the Conference (resolution 54/154, para. 37). Accordingly, a contribution received from the Committee against Torture is contained in the present document.

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Annex

The Committee against Torture,

Recalling that article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stipulates, in its definition of torture, that discrimination is one of the prohibited purposes of an act of torture. The Convention states:

> "the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person ... for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

Recalling that, in the course of its review of State party reports on compliance with the provisions of the Convention, the Committee against Torture has repeatedly expressed concern about the use of torture and other cruel, inhuman or degrading treatment or punishment against vulnerable groups, including national and ethnic minorities, asylum-seekers, refugees and non-citizens, and that the Committee has also received information and raised questions about allegations of many related forms of discrimination, xenophobia and related intolerance based on racial, religious, linguistic, minority or ethnic status, or based upon sex, age, disability, sexual orientation, citizenship or other status,

Observing with regret, that discrimination of any kind can create a climate in which torture and ill-treatment of the "other" group subjected to intolerance and discriminatory treatment can more easily be accepted, and that discrimination undercuts the realization of equality of all persons before the law,

Emphasizing that the World Conference, scheduled to take place in Durban, South Africa, in September 2001, will examine racism, racial discrimination, xenophobia and other related problems which can hamper the realization of the rights ensured in international human rights instruments, including the Convention against Torture,

Calls upon all States to incorporate the crime of torture, as defined in article 1 of the Convention, as a specific offence in their domestic penal legislation,

Recommends that all States ratify the Convention against Torture, which is the least ratified of the six core international human rights instruments. In addition, urges all States to enhance the internationally recognized and legally binding framework to combat and prevent discrimination which is found in the six core human rights instruments by achieving universal ratification of these instruments,

Recommends that States take all necessary steps to ensure that public officials, including law enforcement officers, do not apply discriminatory practices and do not manifest contempt, racial hatred or xenophobia which may lead them to commit acts amounting to torture or ill-treatment against vulnerable groups, in particular ethnic, racial, religious, linguistic or national minorities, asylum-seekers or refugees, or on the basis of any other status,

Stresses that article 10 of the Convention obligates each State party to "ensure that education and information about the prohibition of torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials, and others who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention, or imprisonment". Such educational measures should explicitly address the implications of the fourth purpose contained in the definition of torture ("discrimination of any kind") found in article 1 of the Convention. Such educational efforts would not only help prevent torture in the criminal justice sector, but would help to eradicate intolerance among the broader public as part of the efforts connected to the World Conference,

Emphasizes the vital importance of having transparent and effective official procedures through which individuals can raise complaints of ill-treatment and torture perpetrated on the basis of discrimination, unequal access to justice and related concerns. It is essential that States parties ensure that all alleged victims have access to needed information, support and legal aid, as appropriate. Among the institutions that facilitate such recourse procedures are the courts, as well as an ombudsman, national human rights commission or other related body. The way such institutions address the element of discrimination when examining allegations of torture or ill-treatment should be assessed to identify any need for improving the effectiveness of these mechanisms,

Recalls that an essential element in eradicating racism, racial discrimination, xenophobia, and related intolerance is overcoming impunity. Under the Convention, States are required to bring to justice those responsible for acts of torture or ill-treatment, whether committed against a single individual or a broad group of the population,

Notes, with regard to non-citizens and asylum-seekers, that States parties must ensure that racism, racial discrimination, xenophobia or related intolerance do not result in decisions of deportation to another State where there are grounds for believing that the deportee would be in real danger of being subjected to torture. States should give special consideration to the real risk of torture that may be faced on the basis on an individual's membership in a group that is subject to discriminatory treatment in a State to which he or she may be returned,

Emphasizes that the World Conference offers the opportunity for States and representatives of civil society and non-governmental organizations concerned with human rights to reflect on ways to address most effectively the major problems with regard to racial discrimination and related intolerance and to establish a set of goals for themselves to pursue both nationally and internationally. By devoting attention to the results of racism, racial discrimination, xenophobia and related intolerance and focusing upon appropriate methods of prevention and redress, the World Conference will contribute in large measure to the national and international efforts that are currently being directed towards the suppression of torture and cruel, inhuman or degrading treatment or punishment.